

REMARKS

This is in response to the non-final Office Action mailed February 25, 2009.

Claims 1-47 and 49-61 are pending and at issue in this application. Claims 1, 47, 58 and 61 are amended. Support for these amendments can be found throughout the specification, for example at paragraph 62 of the specification as filed. In view of the foregoing amendments and the following remarks, Applicants respectfully submit that this application is in condition for allowance.

Applicants thank the Examiner for the courtesies extended Applicant during the telephonic interview of June 17, 2009.

Claim Rejections - 35 U.S.C. §102 or § 103

In the Office Action at pages 2-3, claims 1, 4, 15-17, 20-22, 24-27, 29, 35-38, 49-57, and 59-61 are rejected under 35 U.S.C. § 102(e) or alternatively under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,197,051 (Zhong). Applicants respectfully traverse, for at least the reasons set forth in the Response filed December 10, 2008, as well as the following reasons.

The claimed stents are patentable over Zhong because Zhong does not disclose or suggest a stent having a coating comprising a primer layer having a polymer composition of two or more polymers, and a single outermost drug reservoir layer comprising a mixture of two or more polymers, as claimed.

The Office Action alleges that “Zhong teaches, in col. 9, lines 15-45; that the layers of the stent coating may comprise “ ‘combinations of one or more [separate] polymers and/or one or more non-polymers[.]’ ” (p. 3) (bracketed text supplied in Office Action). Applicant disagrees. The section of Zhong cited in the Office Action refers to the composition of the medical device (see Col. 9, line 12), not to the coatings. Zhong does not disclose or suggest a primer layer having a polymer composition of two or more polymers, nor a single outermost drug reservoir layer having a polymer composition comprising a mixture of two or more polymers. Zhong only teaches a combination of polymers in the medical device itself, and does not teach a primer layer and/or a drug reservoir layer each comprising two or more polymers. During the Interview of June 17, 2009, the Examiner indicated that he agreed with this analysis.

Furthermore, Zhong does not disclose or suggest a drug reservoir layer having a polymer composition comprising a mixture of two or more polymers, as recited in the amended claims. Solely to expedite prosecution, Applicants have amended claims 1, 47 and 58 to recite “mixture” instead of “polymeric alloy,” in order to further clarify the claim. As would be understood by a person of ordinary skill in the art, “mixture” has a well-defined meaning in the chemical arts, involving at least two components combined by physical means. Zhong’s polycarbonate-polyurethane copolymer is a single molecule, with subunits covalently bonded to each other. The subunits are thus not mixed by physical means, and therefore could not constitute a mixture of two or more polymers, as the term “mixture” is used in the chemical arts.

Claims 4, 15-17, 20-22, 24-27, 29, 35-38, 49-57, and 59-61 all depend from claim 1, and are therefore allowable as being dependent on an allowable claim. Accordingly, Applicants respectfully request that the rejection of claims 1, 4, 15-17, 20-22, 24-27, 29, 35-38, 49-57, and 59-61 be withdrawn.

Claim Rejection - 35 U.S.C. §103

Claims 2, 5, 14, 23, 30, 47 and 58 – Zhong in view of Fearnot

In the Office Action at page 4, claims 2, 5, 14, 23, 30, 47 and 58 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Zhong in view of U.S. Patent No. 5,380,299 (Fearnot). Applicants respectfully traverse.

As noted above, Zhong does not disclose or suggest a primer layer having a polymer composition of two or more polymers, nor a single outermost drug reservoir layer having a polymer composition comprising a mixture of two or more polymers.

Fearnot does not cure the defects in Zhong. As discussed during the Interview of June 17, 2009, Fearnot also fails to disclose or suggest a primer layer having a polymer composition of two or more polymers and/or a single outermost drug reservoir layer having a polymer composition comprising a mixture of two or more polymers. Instead, Fearnot teaches, e.g., that the outermost layer comprises only a solution of thrombolytic agent, which does not include any polymers (see, e.g., Col. 4, lines 51-56). Furthermore, the antithrombogenic coating comprises only a single polymer (see, e.g., Col. 4, lines 50-52). Nowhere is it disclosed, taught or suggested, e.g., to include

a drug reservoir layer having a polymer composition comprising a mixture of two or more polymers, as claimed. Therefore, the claims are patentable over any reasonable reading of Zhong and Fearnot. During the June 17, 2009 Interview, the Examiner indicated that he agreed with this analysis.

In view of the foregoing, Applicants respectfully request that the rejection of claims 2, 5, 14, 23, 30, 47 and 58 be withdrawn.

Claims 2, 5, 14, 23, 30, 47 and 58 – Zhong in view of Pacetti

In the Office Action at page 6, claims 3, 6-13, 18, 19, 28, 31-34 and 39-46 are rejected under U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,197,051 (Zhong) in view of U.S. Patent No. 6,663,662 (Pacetti). Applicants respectfully traverse.

Claims 3, 6-13, 18, 19, 28, 31-34 and 39-46, depend from claim 1 and therefore include all of its elements. As discussed above for claim 1, Zhong does not teach, disclose or suggest a primer layer having a polymer composition of two or more polymers, nor a single outermost drug reservoir layer having a polymer composition comprising a mixture of two or more polymers.

Pacetti does not cure the defects of Zhong, because Pacetti does not disclose or suggest a primer layer having a polymer composition of two or more polymers and/or a single outermost drug reservoir layer having a polymer composition comprising a mixture of two or more polymers. Therefore, the claims are patentable over any reasonable reading of Zhong and Pacetti.

In view of the foregoing, Applicants respectfully request that the rejection of claims 3, 6-13, 18, 19, 28, 31-34 and 39-46 be withdrawn.

In view of the foregoing, Applicants respectfully submit that the application is in condition for allowance.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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